

FIRST APPEAL NO. 71 OF 1999

1. Shri Santana Pereira,
owner of the Bus r/o
dando, Goa-Velha,
Ilhas, Goa, and
2. United India
Insurance Co. Ltd.,
Damodar Chambers, 2nd
Floor, Cunha Riveira Road,
Panaji, Goa, with which bus
No.GA-01-T-2289 is insured
under Policy
No.120501/31/40/11/B/00. ... Appellants.

Versus

1. Smt. Sita Rama Gauns,
wife of Rama Gauns, 65
years old, widow,
housewife, r/o Siridao,
Palem, H.No.
Tiswadi, Goa (dead through L.Rs.),
2. Shri Purushottam Rama Gauns,
s/o Rama Gauns, 45 years
old, married, agriculturist,
r/o Siridao, Palem, Tiswadi-
Goa (dead through L.R.
Claimant no.3),,
3. Smt. Laximi P. Gauns,
w/o Purushottam Gauns, 40 years
old, married, housewife,
r/o Palem, Siridao, Ilhas,
Goa,
4. Shri Deelip Rama Gauns,
s/o Rama Gauns, 30 years
old, unemployed, r/o
Siridao, Palem, Tiswadi-Goa,
5. Smt. Ganga Chimlo Gauns,
w/o Chimlo Gauns, 36 years
old, widow, housewife,
r/o Palem, Siridao,
Tiswadi-Goa, and
6. The Driver of the Bus
No.GA-01-T-2289, Shri
Sunil Vithal Kuttir,
c/o Kohinor Hotel,
Margao, Dandeli, Ambatnagar. ... Respondents.

Shri A.R.S. Netravalkar, advocate for the appellants.

Shri D. P. Bhise, advocate for the respondents.

CORAM : F. I. REBELLO, J.

DATE : 24th July, 2003.

ORAL JUDGMENT

This is an Appeal by the owner and the insurance company against the Award dated 20th March, 1999. The Appeal was preferred against the entire Award. In my opinion, the findings of the learned Presiding Officer of the Motor Accident Claims Tribunal on issue no.1 have to be upheld, considering the discussion in paragraphs 7 to 12 of the Award.

2. The only limited issue, in my opinion, would be whether the claimant nos.2, 3, 4 and 5 would be entitled to any compensation. The deceased at the time of the accident, was a bachelor. claimant no.1 was the mother. Claimant no.2 was the brother and claimant no.3 was the wife of claimant no.2. Claimant no.4 was another brother and claimant no.5 was the widow of a pre-deceased brother. In the written statement filed on behalf of the respondent nos.1 and 2, it was denied that the applicants were entitled to any compensation. In the written statement of respondent no.3, a plea was raised that the appellants are not entitled to any compensation. Similar was the plea of respondent no.4. The learned Claims Tribunal answering the issue nos.2 and 4 held that in case the petition was disposed of expeditiously, claimant nos. 1 and 2 would have certainly got the compensation which they deserved on account of the death of their son and brother, respectively.

Thereafter, the learned Claims Tribunal considering that respondent no.3 was the wife of claimant no.2 and also independent of claimant no.4 and claimant no.5, proceeded to award them compensation as set out therein. In between claimant no.1 expired and it was directed that the compensation should be apportioned to claimant nos.3, 4 ad 5, as in the meantime claimant no.2 had also expired. The compensation payable to claimant no.2 was directed to be paid to claimant no.3. In the evidence of claimant no.4, it has come on record that he himself was working and that he was looking after the applicant from the time of his father's death. Applicant no.2, he deposed, was also doing daily wages work and earning about Rs.60/- to Rs.70/- per day. In these circumstances it is difficult to accept that it can be said that the original claimant nos. 2 to 5 were depending on the earnings of the deceased. It is possible that the deceased may have been contributing something, but that does not necessarily mean that the said claimants would be the dependents insofar as the claim petition is concerned. In the light of that, the Award in respect of the amount insofar as claimant nos.2 to 5 is concerned, will have to be set aside. Considering the facts and circumstances, the amount to be awarded in favour of the deceased claimant no.1 can be quantified at Rs.50,000/-.

3. Considering the facts and circumstances, the amount awarded is set aside and instead the respondents are

directed to pay jointly and severally, a sum of Rs.50,000/- (rupees fifty thousand only), with interest thereon at 12%, from the date of the petition till payment alongwith costs as set out in the Award. A sum of Rs.25,000/- has already been paid. The respondent Insurance Company has deposited the amount in this Court. The Registry to pay to the appellant the sum of Rs.25,000/- (rupees twenty five thousand only) alongwith interest as ordered and return the balance to the respondent Insurance Company. The amount to be proportionately paid in favour of respondent nos.3,4 and 5.

The Appeal is disposed of in the aforesaid terms.

F. I. REBELLO, J.

mc.